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Equidem ad praedicandum evangelium, amplificandamque Ecclesiam per infidelium potissimum conversionem, ostium magnum apertum iam est, quod obstruere conantur ii, qui e Societate Mercatoria Virginiae<sup>1</sup> Baroni se opponunt, et Coloniam e manibus et potestate Catholicorum eripere magno molimine connituntur, sed nullo hactenus alio effectu quam quod per exactionem Iuramenti vulgo fidelitatis nuncupati protectionem Catholicorum in eam difficillimam reddidere, quasi Regi et Statui Angliae periculosam. In Comitibus vero quid impetraturi sint nondum certo constat.

Atque hic est tam huius Coloniae, quam Missionis praesens status.

2. *Edmund Randolph on the British Treaty, 1795.*

OF the following documents, sent to the REVIEW by Mr. Worthington C. Ford, the first three are in the Library of Congress, Division of Manuscripts. All are in Randolph's handwriting. The fourth and most important, Randolph's letter to the President on the question of ratification, is no longer to be found among the Washington papers in that library, but may be seen only in the form of a copy in a volume of transcripts made for Washington of letters addressed to him by the secretaries of state. For this reason, and also because it is out of its chronological place in that volume of transcripts, it might escape the attention of students.

It may be useful to remind the reader that the Jay treaty, signed November 19, 1794, was received by the President March 7, 1795; that the Senate was convened for June 8, agreed on June 24 to ratify conditionally, and adjourned June 26; that, Randolph alone of the cabinet opposing, the President signed the ratification on August 18; and that Randolph's dramatic resignation occurred on the next day, August 19.

RANDOLPH TO THE PRESIDENT.<sup>2</sup>

E. Randolph has the honor of suggesting to the President, whether it may not be expedient to take the opinion of the gentlemen *in writing* on the following points: 1. Is not the resolution of the Senate, respecting the treaty between the U. S. and G. Britain, intended to be their final act; or do they expect, that the new article shall be submitted to them, before the treaty takes effect? 2. Does the constitution permit

<sup>1</sup> Perhaps the allusion is to Cloberry and Company, perhaps more generally to those who had had part in the management of the Virginia Company in its last years.

<sup>2</sup> The original of this note is in the Library of Congress, Letters to Washington, Miscellaneous, 117, p. 272. The President's letter of June 29, asking of the members of the cabinet substantially the questions here suggested, is in Sparks, *Washington*, XI. 31, and Ford, XIII. 59.

the President to ratify the treaty, without submitting the new article, after it shall be agreed to by the British king, to the advice and consent of the Senate?<sup>1</sup>

Upon these points E. R. has satisfied himself.<sup>2</sup> But he knows, that it is contemplated to embarrass the treaty, by objecting to the course, which may be observed in its ratification; and therefore is anxious, that the President be supported in his measures upon it, by the best advice, which is at hand.

Mr. Adet has proposed a conference with E. R. tomorrow morning. The hour proposed is 9 o'clock. Whatever has been lying in his breast, will no doubt then appear.

June 25, 1795.

MEMORANDUM OF FACTS TO BE RECORDED.<sup>3</sup>

On the 8th of June 1795, Mr. Fauchet wrote to me, among other things, requesting that I would communicate to the President of the U. S. how desirable it would be, that the final vote of the Senate on the treaty with Great Britain should be suspended, until his successor, Mr. Adet, should arrive, and have time to impart his instructions, relative thereto, which he doubtless had. I did communicate Mr. Fauchet's letter to the President, on the same 8th of June; and it did not seem adviseable to take any measures upon that subject then. On Saturday the 13th of June in the evening Mr. Adet arrived and took lodgings in Philadelphia. On Monday, the 15th of June, at 11 o'clock in the morning, Mr. Fauchet accompanied him to my house, and introduced him to me; when he delivered to me a copy of his letters of credence. These were that day shewn to the President, who, having approved them, authorized me to inform Mr. Adet, that he would be received next day at 2 o'clock P. M. I accordingly informed him. On the next day, the 16th of June, I returned Mr. Adet's visit; and as we were walking

<sup>1</sup> On the general subject of the ratification of treaties by the Senate with amendments see Senator H. C. Lodge's article, "The Treaty-Making Power of the Senate," in *Scribner's Magazine* for January, 1902, and *Senate Document* 104, 57th Congress, first session. The form followed by the Senate in this case was to give its advice and consent to ratification, "on condition that there be added to the said treaty an article, whereby it shall be agreed to suspend the operation of so much of the 12th article as respects the trade which his said Majesty thereby consents may be carried on, between the United States and his islands in the West Indies, in the manner, and on the terms and conditions therein specified. And the Senate recommend to the President to proceed without delay to further friendly negotiations with his Majesty, on the subject of the said trade, and of the terms and conditions in question." *Executive Journals*, I. 186.

<sup>2</sup> His own replies, opposing the President's sending to the Senate an article already drawn up, to be approved as a substitute for Art. XII., is in *Letters to Washington*, 117, pp. 274, 275, and in *Sparks, Washington*, XI. 477, 478.

<sup>3</sup> The original of this memorandum is in *Letters to Washington*, Miscellaneous, 117, p. 286. Three sentences of it are printed, with omissions and some alterations, in Conway's *Edmund Randolph*, p. 249.

together in the garden at Oeller's hotel, about a quarter before two, he informed me, that he should send me the next day some act of the French government, relative to commerce. I deemed it improper to ask any explanations; as the development was to follow so soon. But I heard nothing from Mr. Adet on the next day which was Wednesday, Thursday, Friday or Saturday. On Sunday, the 21st of June, I received a packet from Mr. Adet, inclosing copies of the commissions of the consul-general, and three consuls, and requesting exequaturs. On Monday the 22d of June I visited Mr. Adet again; and in conversation I referred to some late letters, which I had sent him. He said, that he would answer such as required answers soon. I told to him [*sic*], that I had at first supposed the packet, which I had received the day before, was what he had expressed on the 16th of June his intention of sending to me the next day. He said that it was copying, and gave me reason to suppose, that he should forward it on that day, the 22d of June. Nothing was forwarded to me on that day by him. On Tuesday the 23d of June I accompanied Mr. Adet to the President's room; when a fair occasion offered, in speaking of the Senate, to inform him, that the Senate would rise on the next day, the 24th of June. I told Mr. Swann the same thing on the same day in the President's room. But I have not at this moment received from Mr. Adet any other communication of business, than what is stated above. The Senate rose about 12 o'clock yesterday.

EDM. RANDOLPH.

June 27, 1795.

MEMORANDUM.<sup>1</sup>

1. Silence—2. positive declaration—3. qualified declaration.

1. Silence throws a doubt on Pt's [President's] intentions; the effect incidental to an unsettled state of things.

From silence, assent argued—Why not express.

P. must express to B. Govt., else delay—Why not now?

Qu: If form settled satisfactorily.

Is article necessary to be propounded?

May it not defeat immediate adjustment?

2. Positive.

*Message.*

The resolution of the Senate, by which "they *do* consent to, and advise the Pt. of the U. S. to ratify the treaty of amity, commerce and navigation, lately concluded between his B. M. and the U. S. of America," on the condition therein expressed, was yesterday notified to me. It is expedient, that I should inform you, in what sense I understand that resolution. It is, that, as soon as the condition shall be fulfilled, in conformity with the instructions and approbation of the President, his ratification is to take effect, and he may cause the ratification to be exchanged. |I shall therefore proceed upon this idea, unless the con-

<sup>1</sup> Original in Letters to Washington, Miscellaneous, 117, pp. 276, 277.

trary be stated to me; and, if the condition be agreed to, I shall ratify the said treaty.

1st alternative. I shall therefore hold myself free to act upon this idea (construction), unless the contrary be stated to me.

2d alternative. I shall therefore proceed upon this idea, unless the contrary be stated to me; and if the condition be agreed to, I shall ratify the said treaty, should no justifying cause oppose such a measure.

Qu: if necessary to say any thing about further negotiation.

*Draft of an article to be added.*

Whereas the President and Senate of the U. S. of America have expressed their desire that there be added to the foregoing treaty an article, suspending the operation of so much of the 12th article as respects the trade, which his majesty thereby consents may be carried on between the U. S. and his islands in the West Indies, in the manner and on the terms and conditions therein specified:

It is therefore agreed, that the operation of so much of the said article as is now recited be suspended.

*Message.*

The resolution of the Senate, by which "they do consent to and advise the President of the U. S. to ratify the treaty of amity, commerce and navigation, lately concluded between his B. M. and the U. S. of America," on the condition therein expressed, was yesterday notified to me. I infer from hence, that it is not the expectation of the Senate, that the treaty should be returned to them for consideration; and that as soon as the condition shall be fulfilled in conformity with the instructions and approbation of the President, he is free to cause the ratification to be exchanged. But as I am desirous, when I deliver my final judgment on the treaty, of being assured, that I have truly understood the sense of the Senate; I submit to them whether an article, which shall be in substance the same with the draught now forwarded, will fulfill the condition intended by the resolution.

RANDOLPH TO THE PRESIDENT.

DEPARTMENT OF STATE,

July 12, 1795.

*Sir,*

The two questions, which I had the honor of receiving from you on the 29th ultimo, being preparatory to the measures, which appear to me most advisable to be pursued on the late treaty with Great Britain, I shall take the liberty of connecting the whole subject together.

Had the Senate advised and consented to a ratification in an unqualified manner, the President would have had nothing but the merits of the treaty, on which to decide. But as the Senate have annexed a

<sup>1</sup>From a copy at the Department of State, Bureau of Rolls and Library, Transcripts, XXII. 184-201.

condition, it is proper to be understood in what manner they intended that condition should be executed. That they intended their resolution of the 24 of July 1795, to be a final act; and that they do not expect the proposed article to be submitted to them before the treaty operates, is the plain signification of their words. The further negotiations, which are recommended, are not to precede, but follow the ratification; for these make no part of the condition; and the discussions in the Senate, which are recorded in the Executive Journal, shew, not only, that they were apprised of the distinction between precedent and subsequent negotiations; but that the attempts for precedent ones all failed. It was possible, that some people might hesitate upon the constitutionality of the Senate leaving to the President alone, to see, that their condition was complied with. In answer to this it may be said, the Senate are to advise and consent that the President make the treaty: they are not to make the treaty themselves. When they advise and consent unconstitutionally [unconditionally], they rely on the integrity of the President, that he will not suffer any words to be inserted in the paper, or omitted from it. In this case they rely, that he will strictly follow their advice. If he ratifies without again consulting them, he undertakes for the accuracy with which that advice has been followed. If he ratifies what they did not agree to, their security consists in this; that the treaty will, for that cause, not be the supreme law of the Land; and it cannot be concealed from the world by any official forms, since he must set forth the whole truth of the case in the ratification. The very nature of the power, vested in the Senate, implies, that they are to act upon something not yet complete; the completion of it is reserved to the President. Consequently the Senate may give their advice and consent without the very treaty, which is to be ratified being before them. To this it may be objected, that, according to these positions, the Senate may *now* advise and consent to the general matter of a treaty, which may not be formed for years to come, and thus forestall the judgment of their successors. My answer is, 1. that it is not necessary at this moment to decide upon this objection; because it is not the general matter of a treaty which is consigned to the wording of the President; it is only the simple act of suspending part of an article; which is very little more or less, than striking it out by a pen; and the words which the Senate have used, are apt words in themselves, for which none can be substituted, which can well create ambiguity.—2. If it were necessary to decide upon the objection, I would say, that it can scarcely ever happen, that the Senate will submit to the President to work up the general matter of a treaty in any form, which he shall approve.—3. But still the objection recurs: can they do so constitutionally?—I think not.—How then is this distinguishable from what they have now done? In the circumstance of the amendment being nothing more than (as has been already observed) a mere suspension or striking out; in the inevitable consequence, that if any deviation be made from the

sense of the Senate by the shapes of speech which may be chosen, it will be immediately detected; and in the certainty that the sense of the Senate will be expressed, unless there be a wilfull departure from it; which would amount to a cause of impeachment, would avail nothing in fact, and is not to be presumed.—4. As to the length of time beforehand, which my doctrine would allow to the Senate; the restriction would be this: if the President was once to pass his judgment upon it, whether in the negative or affirmative, the subject would be immediately ended; or if before he had passed his judgment upon it, a future Senate should by a vote of two thirds annul the preceding vote, it would be constitutionally abolished. So that the power of a succeeding Senate need never be supposed in danger. From these considerations, I conclude, that the President may ratify without submitting the new article to the Senate.

If these difficulties shall be cleared away in the President's mind, he will next arrive at the two great and momentous questions: 1. Whether to ratify, as the Senate have advised, or reject: 2. and what line of conduct is to be pursued, in either event.

1. The reasons for ratifying or rejecting have often passed thro' his mind; but as it will aid me in my own conclusions, to bring the principal of those reasons into one summary view, I beg leave to offer this concise statement.

A treaty is the act of two independent nations; neither having a right to dictate to the other; and each determining upon what it will yield or accept, partly from its sense of right; partly upon its own strength, and partly upon the inferiority and actual situation of its antagonist. Compare the U States and Great Britain together; and war from us would appear formidable to her no otherwise, than as it would interrupt her trade and manufactures. These being the only avenues through which G. Britain, as a nation, could have been really wounded by us, she went into the negotiation with no other apprehension of us, unless it might have been, that the supplies for the West Indies would be withholden. To counterpoise this, she calculated upon our aversion to war, founded upon our true policy: she was conscious of her own ability to enter into any commercial reprisals upon us; and understood the temper of our people too well to believe, that they would have *long* foreborne from the fruits of neutrality for the indulgence of national hatred. We know, that at one period the british ministry would have made war upon us:<sup>1</sup> her losses and our sincere neutrality perhaps changed this hostile disposition; but she must have been perfectly persuaded, that we could stipulate nothing in her favour, wch. could relieve her from present difficulties in the war with France.

Under these circumstances, what kind of a treaty could we expect? Not one dictated by ourselves; nor yet one, different from all that have ever been made on such occasions, on principles of compromise and mu-

<sup>1</sup> See Jay to Washington, July 21, 1794. *Correspondence of John Jay*, IV. 33.

tual concession. If the present constitution of the United States, which was the act of sister-states was an affair of accommodation; how could it be expected that two nations, widely alienated from one another, could agree on any other terms?

Let the treaty be reviewed under the following heads: 1. The rights, which we have obtained: 2. the rights, which we have surrendered: 3. the favors which we have gained: 4. miscellaneous matter.

My first purpose was to class the articles of the treaty under these different heads, and thus examine them individually. But *the paper*,<sup>1</sup> which you did me the honor of shewing to me, having gone into this [in] detail, I shall speak of them separately only where I differ from its writer.

1. The rights gained are the posts and compensation for the captures.<sup>2</sup>

2. The rights surrendered are

1. Satisfaction for the negros. The President will recollect the reasoning contained in the letter to Mr Jay in December last.<sup>3</sup> This still strikes me, as unanswerably true; and I will add another reflection of no small weight; that, if the negotiators did not think proper to ascertain who was the first aggressor, every thing dependent upon this idea shou'd have been buried; whereas the U. S. are to be burthened with the debts of individuals, solely because the several States are supposed to have been the first aggressors.

2. The right of sequestering or confiscating the debts, funds etc. of an enemy.<sup>4</sup> It is a sound principle to prevent such acts: but it will be a subject of great clamor in the house of Representatives; as insinuating the apprehension of fraud in them; as being the symptoms of a desire to enlarge the authority to make treaties; as taking away one of the means of redress; and as influencing the questions now depending in Court, as far as an opinion can go. It is reciprocal, it is true, and important to commercial credit. But I wish the *principle* only had been declared, without stipulating against the *practice*. It would have been sufficiently operative, without being a direct attack upon the House of Representatives.

3. The rights surrendered by the 12th article, need not be spoken of; as it is to be suspended.

4. The rights of the settlers within the precincts and jurisdiction of the posts etc.<sup>5</sup> I understand this as the paper does—not liable to much exception.

<sup>1</sup> Hamilton's elaborate reply, dated July 9, to the letter of July 3, in which the President (*Writings*, ed. Ford, XIII. 61–63) asks his advice as to ratification in much the same terms as those of his queries to the members of the cabinet. It is printed in Lodge's edition of Hamilton's works, IV. 322–363.

<sup>2</sup> Arts. II. and VII.

<sup>3</sup> *American State Papers, Foreign Relations*, I. 509.

<sup>4</sup> Art. X.

<sup>5</sup> In Art. II.



5. The prohibition of our citizens to take commissions from foreign powers.<sup>1</sup> I understand this, as the paper does, liable to no exception.

6. The provision against reprisals, until justice be refused or unreasonably delayed,<sup>2</sup> will contribute to peace.

7. The prohibition of countenance to foreign privateers etc.<sup>3</sup> This I understand as the paper does; liable to no objection.

8. I rank among the rights surrendered the clause respecting provisions being seizable.<sup>4</sup> *The paper* has not taken into the account, that the *seizor* will be always the judge, whether they are so: that G. Britain has avowed her doctrine on the 8th of June 1793; and that she has again commented upon it in the same way by her late order.<sup>5</sup>

3. The favors which we have gained are

1. The India trade, and the power of supplying Canada etc. with European, Asiatic and domestic articles.<sup>6</sup>

*The paper* does not touch the great objection, that british vessels come so high up, while our's are admitted only so low down.<sup>7</sup> It is a disadvantage; but it's value is not very important. It will be played off more against Mr Jay's vigilance, than for any other purpose.

2. The trade to the East Indies.<sup>8</sup>

From the article on this subject we certainly derive two advantages. 1. The conversion of what has been hitherto a favor into a compact; namely, a direct trade from the East Indies to the U. S. 2. the prohibition of higher duties on our exportations than on british exportations. And *the paper* supposes, that every thing else is left upon it's old footing; and the same indulgencies may be granted after the treaty, as before. This is apparently the case. But these doubts occur. 1. whether many American merchants will risque themselves upon the chance of receiving these indulgences in the face of a treaty; and knowing that they *may* be deprived of the opportunity of employing their spare time in going from the East Indies to China etc. with a coasting freight, they may not withdraw from the trade.—2. whether the probability is not greater, that the indulgencies *will* be withdrawn, after such a treaty than before it. For why has the british government expressly stipulated against the continuance of the privilege, if it was intended to leave a discretionary power to enforce the restriction, or not?

4. The miscellaneous matter of the treaty.

<sup>1</sup> Art. XXI.

<sup>2</sup> Art. XXII.

<sup>3</sup> Art. XXIV.

<sup>4</sup> In Art. XVIII. See Moore, *Digest of International Law*, VII. 675-679.

<sup>5</sup> The text of the orders of June 8, 1793, is given in Moore, *International Arbitrations*, I. 300-301, and in *American State Papers, Foreign Relations*, I. 240; that of the orders of April, 1795, was never published. Moore, I. 310.

<sup>6</sup> Art. III.

<sup>7</sup> In the former case to the highest ports of entry on the rivers; in the latter, only to the mouths.

<sup>8</sup> Art. XIII.

1. All our differences are closed. This is a most valuable quality; altho' we have made some sacrifices.

2. The adjustments as to the Mississippi and St. Croix are unexceptionable.<sup>1</sup>

3. The *mode* of deciding on the captures<sup>2</sup> is agreeable to usage in one respect, and more favorable than usual in another. I wish, that the stipulation against *illegal* and *irregular* captures may be found broad enough for full satisfaction to our citizens.

4. The European trade stands upon the footing of reciprocity; not very important in any way. The prohibition of additional tonnage and additional duties deprives the U. S. of the power of discriminating between the british and other nations, is not unreasonable, while we mean to keep peace with Great Britain.<sup>3</sup>

5. The prohibition<sup>4</sup> to make treaties, in derogation of the 24 and 25. articles cannot be important to us, as it is to last only during our amity with Great Britain; and while we are her *friends*, we surely cannot wish to assist her *enemies*. It cannot be important to France, because her treaty secures this point; and in any new negotiation, so much of the old treaty may be reserved.

Other articles are too small to require a comment.

Here then I return to the question, whether the President ought to ratify, as the Senate have advised, or reject?

Advantages and disadvantages, depending upon moral reasoning, cannot, like pounds, shillings and pence, be weighed in opposite scales. For want of a standard of certainty, let us bring them together in the following contrast.

#### 1. Advantages.

1. Old bickerings settled; except as to impressments and provisions.

2. Indian wars at an end; at least those countenanced by G. Britain.

3. New opportunities for extending trade in Canada.

4. Posts surrendered.

5. Captures compensated.

6. Gr: Britain interested in *securing* to us the Mississippi.

#### 2. Disadvantages

1. Loss of negros.

2. Assumption of debts due to british creditors in certain cases.

3. The lands which may be taken from the U. S. by the indulgence to the british settlers.

4. the *situation* of provisions.

3. Doubtful.

1. East India trade.

2. The European trade cannot be properly called doubtful; but it has no peculiar advantage on our side.

Independent of these pros and cons, arising from the face of the treaty, there are some other considerations, entitled to attention; wch recommend ratification and dissuade rejection.

<sup>1</sup> Arts. IV. and V.

<sup>2</sup> Art. VII.

<sup>3</sup> Arts. XIV. and XV.

<sup>4</sup> In Art. XXV.

Those, which recommend ratification, are

1. that peace, or rather the non-interruption of our Commerce will be secured.

2. that the danger of being thrown into one set of foreign politics by an abhorrence of the outrages of another, will be so far cut up.

3. that it gives some prospect of extending our commerce with the british dominions.

4. that as it is not the interest of the U. S. to be on ill terms with France, lest we thereby throw ourselves too much on G. Britain, so vice versa, the U. S. ought to be on good terms with both. It is at least doubtful, whether it be the interest of the U. S. that there should be only *one* dominant power, or game-cock in Europe.

The reasons, that dissuade rejection, are

1. the latitude of authority, with which. Mr. Jay was vested, and his not having exceeded it.

2. The little expectation of obtaining a much better treaty.

3. The possibility of the convulsions of France, re-inspiring G: Britain with her former arrogance.

4. The impression, which the refusal to ratify, will make upon our public, national character; merely because we have not all the advantage on our side. This idea I prefer to the one adopted by *the paper*; which supposes us to be called upon by our professions of neutrality to ratify.

5. The postponement of the surrender of the posts, and its consequences.

6. The exposure of the twenty senators to a general assault:<sup>1</sup> the consequent alienation of them from the Government: the victory to the minority in the Senate; who in conjunction with the majority in the house of representatives, will first be loud in their eulogiums on the President, and afterwards never be satisfied, unless they dictate to him. This reason is however of no consequence, if the President be satisfied, that it is right on other grounds to reject the treaty. It is only one of those little things, which may deserve some respect, where the scale of truth hangs in equilibrio.

To these considerations, stand opposed the opinion of a senator, who, under the signature of Americanus, imagines, that the suspension of the 12th article will suspend the whole of the treaty, except the first ten articles; and the late order, if genuine, for the capture of provisions. That opinion, if true, ought to arrest the ratification; but I cannot, upon any examination, which I have given the subject, discover the principles of it. The last eighteen articles are to expire, only in case the 12th cannot be arranged, before the expiration of two years after the war; and are not affected by any *intermediate* fate of the 12th article.<sup>2</sup> But the order for capturing provisions is too irreconcilable with a state of harmony, for the treaty to be put into motion during its existence. The

<sup>1</sup> The ratification was carried by a vote of 20 to 10.

<sup>2</sup> Art. XXVIII.

reasons are mentioned in the paper, and in another part of this writing. And if no expedient could be found for the emergency, it would be my opinion, that the treaty ought to be absolutely broken up; and if new negotiations could not be opened, that other views of our situation should be examined.

It is questionable whether the suspension of the treaty for so just a cause has not some benefits. 1. Before it is completed, this campaign, if not the war, may perhaps be finished. 2. the passions of the public will have subsided. 3. Possibly some of the captures may have been decided, and some compensation made, in the ordinary course of proceeding, without the intervention of the treaty; so as to satisfy the people, that the british mean to do justice. 4. The subjects, omitted by Mr. Jay, to wit, impressments, and orders against the continuance of the capturing system, may be pressed with effect; tho' not as ultimate. 5. It enables the President, as will be seen under the next head, to bring back to *himself* the treaty, before it is ratified, and thus avoid all risque of censure.

2. The next enquiry is, what step the President will take upon either hypothesis of rejection or ratification. Upon that of rejection, there is but one; namely, an attempt to renew the negotiation.

My plan for the ratification, tho going to the same final object with *the paper*, is different in the means which it uses. It is the following: the actual position of political affairs in Holland: the actual position of our pecuniary affairs there, as communicated to me by the Secretary of the Treasury: the puerile appearance, which it will have, to be shifting ministers about in Europe: convince me, that Mr. Adams<sup>1</sup> ought not to be drawn over from the Hague to London. If, however, the President shall be pleased to determine otherwise, Mr. Adams's agency will not very materially change the measures, which I propose.<sup>2</sup>

I take the liberty then of suggesting: that a personal interview be immediately had between the Secretary of State and Mr Hammond, and that the substance of the address to him be this.

"I know, Sir, that you are acquainted with the late treaty between the U. S. and his britannic majesty; and presume, that you have seen the vote of the Senate, advising a ratification of it upon condition. That treaty being still subject to the negative of the President, is now before him, undetermined as to its fate. The candour which has reigned throughout our proceedings, induces me, with the permission of the

<sup>1</sup> John Quincy Adams, minister to the Netherlands.

<sup>2</sup> The ensuing paragraphs, containing the proposed address to Hammond, are printed in *A Vindication of Mr. Randolph's Resignation* (Philadelphia, 1795), pp. 30, 31. On July 13, the day after the date of this letter, the President directed Randolph to address Hammond as he proposed, and he at once did so. He then directed him to prepare the memorial which he had mentioned to Hammond, on the provision order, a form of ratification, and instructions to the person who was to manage the business in London. *A Vindication*, p. 31; Conway, pp. 267, 339, 340; Randolph to the President, July 20, in Sparks, *Washington*, XI. 45.

President, to explain to you, as the Minister plenipotentiary of his britannic majesty near the United States, what is the course of his reflection upon this momentous transaction. If his majesty could doubt the sincerity of the President's professions of a desire to maintain full harmony with the british nation; his doubt will vanish when he is told, Sir, as I now tell you, that, notwithstanding after the most mature consideration of the treaty, there are several parts, by no means coincident with his wishes and expectations; yet he had determined to ratify it, in the manner advised by the Senate. He had determined to put his hand to it, without again submitting it, even after the insertion of the new article, to the Senate.

"But we are informed by the public gazettes, and by letters, tolerably authentic, that vessels, even American vessels, laden with provisions for France, may be captured and dealt with, as carrying a kind of qualified contraband. If this be not true, you can correct me.

"Upon the supposition of its truth, the President cannot persuade himself, that he ought to ratify, during the existence of that order. His reasons will be detailed in a proper representation thro' Mr Hammond to his britannic majesty. At the same time, that order being removed, he will ratify without delay or further scruple. Of this also his britannic majesty will be informed in the most explicit and unequivocal terms.

"Now, Sir, the object of my interview with you arises from my recollection of your having expressed to me a wish, that the ratifications should be exchanged here, in order that you might have some agency in closing the treaty. I am thus led to believe, that it may not be disagreeable to you to undertake what I shall now have the honor of proposing to you.

"Supposing that Mr Jay's negotiation would absorb every controversy: that nothing would be left to be done for some time in the ordinary course of residence; or that Mr Pinckney would have returned to London before he was wanted there, he was dispatched as an Envoy to Madrid. He did not commence his journey until the 11. of May last. The Secretary of the Legation, Mr Deas,<sup>1</sup> is the only person remaining in London, as the political agent of the U S. Being desirous of consummating every thing here, as far as we can, it has occurred to me to state in a memorial to you the situation of the business, and the foregoing declaration of the President's purpose to ratify. This, we presume, will be immediately transmitted through you to the british ministry. The reply may be handed to Mr Deas. You will also be furnished with a copy of the form, in which the President means to ratify, when the order is rescinded.

"The President had indeed once thought to order one of our European ministers over to London to supply for this purpose the place of Mr Pinckney: but the most weighty objections render this impractic-

<sup>1</sup> William Allen Deas of South Carolina, who finally carried out the exchange of ratifications.

able. And it may be also conceived, that to send over a fresh diplomatic character, at this stage of the business, would neither be very easy, nor very expeditious.

"It is also contemplated by the President, to propose that, for the purpose of saving delay, the ratifications may be exchanged *here*. For, altho' he does not doubt the constitutionality of the Senate's act, and is advised too, that the proposed article, if agreed to by his britannic majesty, need not be submitted to them before ratification; yet he entertains serious doubts, whether he can himself ratify, without having the very article under his eye, after it shall have been assented to by his britannic majesty. The difference of time in the one form or the other will consist only in a voyage from London to Philadelphia. Provision will be made for the subscription in London of any papers, which *form* may require.

"You will oblige me, Sir, by giving me your sentiments on this statement."

According to Mr Hammond's reply, so will the Government conduct itself.

If the thing can be arranged with him, it is humbly offered to the President, as the best expedient. If it cannot, let us try, whether Deas cannot be so prepared, as to have little more to do than what an automaton would be equal to; that is, the mere delivery of papers, and the receiving of answers. If Deas cannot be substituted, then some of our European ministers must of necessity be sent over; unless some qualified person would go from hence, without eclat, in the character of a mere agent.

I have the honor, Sir, to be etc. etc.

EDM: RANDOLPH.

P. S. I forgot to add, as to the order for seizing provisions, a circumstance greatly critical. The reasons, adducted by Mr Adet against the treaty, are all against him. But if this order be tolerated, while France is understood to labour under a famine, the torrent of invective from France and our own countrymen will be immense.

3. *Virgil Maxcy on Calhoun's Political Opinions and Prospects*,  
1823.

THE following letter, at present in the possession of the managing editor, is of interest in the paucity of Calhoun's published political correspondence for 1823 and the adjoining years. It is especially so because it shows him at that time pointedly adhering to the position on the tariff which he had taken in his celebrated speech of 1816. The letter thus supplements that which Calhoun wrote directly to Garnett on July 3, 1824 (*Correspondence*, p. 219). The communication of Calhoun to Maxcy on which it is in part based is not in the collection of his letters to Maxcy in the Library of Congress.